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9  
10 UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION

13 UNITED STATES OF AMERICA,  
14  
15 Plaintiff,  
16 v.  
17 SEAN DAVID MORTON, et al.,  
18 Defendant.

No. CR 15-00611-SVW

UNITED STATES' SENTENCING  
MEMORANDUM FOR  
DEFENDANT MELISSA MORTON;  
DECLARATION; EXHIBITS

19 The United States of America, by and through its undersigned counsel, hereby  
20 submits a sentencing brief in anticipation of the sentencing of defendant Melissa Morton  
21 currently scheduled for September 18, 2017.

22 As set forth more fully below, the Government agrees with the recommendation of  
23 the Probation Office that defendant Melissa Morton should be sentenced to a term of  
24 imprisonment of 78 months, followed by 5 years of supervised release, and further be  
25 ordered to pay \$480,322.55 in restitution to the Internal Revenue Service (IRS), and a  
26 special assessment of \$2,800.

27 The United States' Sentencing Brief is based on the attached memorandum of  
28 points and authorities, the Presentence Report (PSR) and disclosed Letter of the United

1 States Probation Office at Docket Nos. 235 and 236, defendant's sentencing position at  
2 Docket No. 265, the evidence and testimony adduced at the trial of this case, the records  
3 and files of this case, the Declaration of IRS-CI Special Agent John Lucero and  
4 supporting exhibits attached filed concurrently herewith, and any argument the Court  
5 may adduce at the hearing on this matter.

6 DATED:

SANDRA R. BROWN  
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THOMAS D. COKER  
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10  
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1                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2           **I. Summary of the United States' Sentence Recommendation**

3           The United States has no objection to the PSR or the disclosed Letter and  
4 agrees with the Probation Office's finding that defendant's total combined adjusted  
5 offense level is 28. A term of **78 months** imprisonment is warranted in this case,  
6 as explained further below.

7           **II. Procedural History**

8               **a. Indictment**

9           Defendant, along with her husband and co-defendant Sean David Morton,  
10 was charged in the first superseding indictment (FSI) filed on January 27, 2016,  
11 with one count of conspiring to defraud the United States in violation of 18 U.S.C.  
12 § 371 (Count 1), two counts of filing false claims against the United States in  
13 violation of 18 U.S.C. § 287 (Counts 4 and 5), and 25 counts of passing,  
14 presenting, and/or offering, false or fictitious financial instruments in violation of  
15 18 U.S.C. § 514 (Counts 8 and 33-56) either on her behalf, or ones she and her co-  
16 conspirator marketed, sold, prepared, and passed on behalf of their "clients."  
17 Docket No. 17. Count 1 of the FSI related to defendants' conspiracy to defraud the  
18 United States between March/April 2009 and April 2013. Counts 4 and 5 of the  
19 FSI pertained to a fraudulent federal income tax return and a fraudulent claim for  
20 refund filed by defendant during the aforementioned time period, wherein  
21 defendant claimed false federal tax refunds based on nonexistent Original Issue  
22 Discount (OID) income and withholdings. Count 8 pertains to a false bond that  
23 defendant submitted to the IRS in the amount of \$600,000. Finally, Counts 33  
24 through 56 of the FSI related to fictitious financial instruments prepared, marketed,  
25 and sold by defendant and her co-conspirator on behalf of clients who wanted to  
26 pay off their commercial debt with various financial institutions.

27           On February 4, 2016, defendant plead not guilty to all counts. Docket No.  
28 37.

1                   **b. Trial**

2           Beginning on April 4, 2017, a four day trial commenced, and on April 7,  
3 2017, a jury returned guilty verdicts against defendant and her co-defendant on all  
4 counts. Docket No. 195.

5                   **c. PSR and Letter**

6           On June 16, 2017, the Probation Office disclosed the PSR and Letter,  
7 wherein it recommend that defendant's offense level be 28, defendant's criminal  
8 history be Category I, and defendant be sentenced to a term of imprisonment of 78  
9 months, which is the low-end of the advisory Sentencing Guidelines range for said  
10 offense level. Letter, p. 1. This recommended term consists of 78 months on each  
11 of Counts 8, and 33 through 56, and 60 months on each of counts 1, 4, and 5 of the  
12 FSI, all to be served concurrently. Id., p. 2. The Probation Office recommended the  
13 imposition of a 5 year term of supervised release, a restitution order of  
14 \$480,322.55 payable to the IRS, a fine in the amount of \$12,516, and a special  
15 assessment of \$2,800. Id., pp. 1-2. The Probation Office recommends certain  
16 terms and conditions to be imposed on defendant during supervised release. Id. p.  
17 2.

18                   **d. Recent Conduct by Defendant**

19           On June 19, 2017, defendant's husband and co-defendant, Sean David  
20 Morton, failed to appear at his sentencing hearing. Thereafter, this Court issued a  
21 warrant for his arrest. On June 28, 2017, defendant Melissa Morton agreed as a  
22 condition of her bond that she not have any contact with defendant Sean David  
23 Morton. Docket Nos. 241, 242.

24           On August 21, 2017, defendant Melissa Morton was arrested with her co-  
25 defendant at the Desert Hot Springs Hotel and Spa, in Desert Hot Springs,  
26 California. Defendants had checked into the hotel on August 20, 2017, and had  
27 made a two-day reservation. Defendant was in her vehicle about to leave the  
28

1 premises when IRS-CI Special Agents stopped her. Declaration of IRS-CI Special  
2 Agent John Lucero, ¶ 5.

3 **III. Government's Offense Level Calculation**

4 The United States provides the following substantiation of the loss in  
5 relation to the recommended offense level for defendant, similar to that it  
6 submitted to the Probation Office. PSR, ¶ 13.

7 **a. Loss Regarding Section 287 counts**

8 *i. Facts proven at trial*

9 Defendant was convicted of submitting false claims to the United States in  
10 Counts 4 and 5, in violation of 18 U.S.C. § 287, which conduct occurred in  
11 December 2010 and June 2012. During this time period, defendant submitted a  
12 federal income tax return and a claim for refunds to the IRS in amounts in which  
13 she was not entitled, with each falsely claimed that defendant earned OID income  
14 from various financial institutions and reported that the majority of this income had  
15 been withheld and paid over to the IRS. Defendant claimed that she was entitled to  
16 federal tax refunds based on the difference between the resulting income tax and  
17 the amount of the reported withholdings. As proven at trial, these claims were  
18 fraudulent, as defendant had no OID income, and no withholding paid over to the  
19 IRS.

20 In addition, though the government did not charge all of the claims for  
21 refunds that defendant submitted to the IRS beginning in 2009 through 2012 as  
22 separate violations of section 287, in addition to the loss in Counts 4 and 5, such  
23 should be included in calculating defendant intended loss had the scheme been  
24 successful. Further, these false claims were included as overt acts with respect to  
25 Count 1, conspiracy. As introduced into evidence at trial, in March 2009,  
26 defendant filed a false income tax return with the IRS for 2007 which claimed a  
27 refund based on false OID income and withholding. See Declaration of IRS  
28 Special Agent John Lucero, Exhibit 6. In August 2010, defendant filed a 2007

income tax return claiming fraudulent tax refunds based on false OID income and non-existent income tax withholdings. See Declaration, Exhibit 13. In December 2010, defendant filed a false income tax returns claiming a larger refund, and paradoxically reported zero income but a large amount of income tax withholdings, and claimed a refund for the entirety of these false withholdings. See Declaration, Exhibit 17. Finally, in June 2012, defendant attempted to obtain false refunds from the IRS by filing a false Form 843, Claim for Refund. See Declaration, Exhibit 19.

*ii. Applicable Loss*

As seen in the Sentencing Guidelines and its related commentary, “tax loss” is the amount of the loss that was the object of the offense, including conduct that is a continuing pattern of violations of tax laws by the defendant. U.S.S.G. § 2T1.1(c)(1) and commentary application note 2. Total tax loss includes each instance that involved a false claim. Id. This definition is supported in section 2B1.1 and related commentary, application note 3(A) of the Guidelines. There, the Sentencing Commission defined the loss to include the greater of actual or intended loss, defined as the pecuniary harm the defendant purposefully sought to inflict. Id.

The following chart enumerates the entirety of defendant’s intended loss with respect to every false claims for refund she submitted to the IRS:

<b>Date (Count, Overt Act ¶, Exhibit #)</b>	<b>Claim for Refund</b>	<b>Amount</b>
March 13, 2009 (Count 1, ¶ 19, Ex. 6)	2007 Form 1040	\$12,305
August 31, 2010 (Count 1, ¶ 42, Ex. 13)	2007 Form 1040	\$12,305
December 3, 2010 (Count 1, ¶ 46, Count 4, Ex. 17)	2007 Form 1040	\$14,816.70
June 21, 2012 (Count 1, ¶ 48, Count 5, Ex. 19)	IRS Form 843 for 2007	\$12,727
	<b>Total False Claims:</b>	<b>\$52,153.70</b>

1 As such, defendant's base offense level for the section 287 offenses is **14**.  
 2 U.S.S.G. § 2T4.1.<sup>1</sup>  
 3

4 **b. Loss Regarding Section 371 count**

5 Both defendants were convicted of conspiring to defraud the United States  
 6 under 18 U.S.C. § 371 in Count 1.

7 Under U.S.S.G. § 2T1.9, the base offense level for each defendant is also  
 8 tied to the offense level as determined under sections 2T1.1 and 2T4.1. As noted in  
 9 the PSR, the Probation Office calculated (and the government agrees) that co-  
 10 defendant Sean David Morton's base offense level for the section 287 offenses as  
 11 26. Since defendant Melissa Morton was convicted of conspiracy, her base offense  
 12 level is that of her co-conspirator, defendant Sean David Morton, which is 26, as  
 13 this captures the total loss of both conspirators as the object of their offenses (with  
 14 the cumulative total of defendants' false claims is \$12,475,285.13). U.S.S.G. §§  
 15 2T1.9, 4.1, PSR ¶¶ 36-47, 56.

16 **c. Loss Regarding Section 514 counts**

17 As charged in Counts 1, overt act no. 50, 8 and 33 through 56 of the FSI,  
 18 defendant was convicted of making and passing false financial instruments with  
 19 respect to herself and her clients.

20 *iii. Facts proven at trial re: Counts 1, overt act no. 50 and 8*

21 With respect to defendant's making and passing false financial instruments  
 22 for herself to the IRS, as proven at trial, in 2013, defendant submitted a false bond  
 23 to the IRS in the amount of \$600,000, in purported payment of any outstanding tax  
 24 liability with the IRS. See Declaration, Exhibit 21.

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25  
 26  
 27 <sup>1</sup> If using the Sentencing Guidelines § 2B1.1 (which, the government maintains that  
 28 the tax tables are more appropriate), defendant's base offense level is **13**. PSR, ¶¶  
 41-52.



1                    *iv. Facts proven at trial re: 33 through 56*

2            Defendant's criminal conduct involved the marketing of fictitious financial  
3 instruments to other individuals as a way to pay off debt. In total, the government  
4 proved that defendants made and passed 24 fictitious financial instruments on  
5 behalf of others individuals.

6                    *v. Applicable Loss*

7            The total amounts of the check/bonds defendant and her co-conspirator  
8 made and passed are astronomical—the principal amounts of said instruments  
9 range from \$50,000 (Count 32) to \$10 million (Count 7).

10           The United States argues that the correct amount of loss as to the making  
11 and passing of fictitious financial instruments is not the amount of the false  
12 check/bonds themselves, but rather, the amount of the debt the check/bonds were  
13 trying to pay off on behalf of the defendant or his clients if the scheme had worked.

14           As to defendant's making and passing of her false bond, defendant was  
15 trying to pay off the erroneous refund the IRS issued to her co-conspirator in the  
16 amount of \$480,322.55. See Declaration, Exhibit 21. Defendant made and passed  
17 the false bond as a form of payment to the IRS for this debt, since she and her co-  
18 conspirator had otherwise disposed of the erroneous refund shortly after receiving  
19 it.

20           As the Court is aware, in September 2015, the United States searched  
21 defendants' home pursuant to a warrant, wherein client files prepared and  
22 maintained by defendants were found. In the various client files were copies of the  
23 balances of the debts each client was trying to resolve by using defendant's bond  
24 scheme. Attached hereto are copies of the bills/statements for the clients, redacted  
25 for personal identifying information, which show the balances of the clients' debt  
26 they were trying to resolve. See Declaration, Exhibits A-U. In issuing and passing  
27 these bonds, defendants intended to defraud the various institutions receiving the  
28

subject bonds. Therefore, the intended loss should be calculated based on the total outstanding debts sought to be discharged by the use of the bonds, as follows:

Count	Client	Exhibit	Debtor/Bank Recipient	Amount
9	D.B.	A	IRS	\$153,689
10	Sean David Morton	B	CA FTB	\$115,816
11	W.P.G.	C	Quicken Loans	\$382,353
12	W.P.G.	D	IRS	\$44,497
13	W.F.K.	E	PNC Bank	\$110,000
14	A.M.	F	PennyMac	\$233,563
15	M.W.	G	Chase	\$66,734
16	D.N.M.	H	Bank of America/AAA	\$25,540
17	D.N.M.	I	BJ/Barclay/Comenity	\$32,389
18	D.N.M.	J	Costco/AMEX	\$9,484
19	M.B.R.	K	Chevron	\$403,630
20	M.B.R.	L	ACS	\$66,868
21	M.C.U.	M	Chase	\$26,000
22	S.H.Y.		Contra Costa County Treasurer	n/a
23	D.W.	N	CitiMortgage	\$134,475
24	E.C.	O	Santander Bank	\$277,916
25	T.C.		Chase	n/a
26	P.M.	P	Nationstar	\$236,024
27	B.L.		Navient	\$75,000
28	M.A.E.	Q	IRS	\$204,582
29	M.A.E.	U	CA FTB	\$54,930
30	M.G.K.	V	Nationstar	\$444,682

Count	Client	Exhibit	Debtor/Bank Recipient	Amount
31	D.M.S.	W	Barclay	\$15,185
32	N.J.Z.	X	Bank of America	\$37,428
			<i>Total Intended Debt to be paid by bonds for clients:</i>	\$3,150,786
6/7/8	Sean David Morton	14/153/21	<i>Defendant SDM's Debt with the IRS which defendant MM tried to pay off using the \$600,000 bond:</i>	\$480,322.55
			<b>Total Intended Debt to be paid by check/bonds:</b>	\$3,631,108.55 <sup>2</sup>

See Declaration, Exhibits 21, A-U; Exhibits 14 and 153.<sup>3</sup>

Based on the government's calculation of the intended loss of defendant's use of false bonds to pay off her debt with the IRS, and the intended loss of defendant's clients with their purchase of the bonds, under U.S.S.G. § 2B1.1, defendant's total offense level for each of the violations of 18 U.S.C. § 514 is **25**. PSR, ¶ 28, 57-64. The base offense level is 7, as defendant was convicted of an offense (18 U.S.C. § 514) referenced in the Sentencing Guidelines §2B1.1, and these offenses have a statutory maximum term of imprisonment of 25 years. The offense level is increased by 18 levels because the intended loss is more than \$3.5 million, but less than \$9.5 million. U.S.S.G. § 2B1.1(b)(1)(J).

<sup>2</sup> There appears to be a mathematical error in the PSR, ¶ 28.

<sup>3</sup> Exhibits 14 and 153 were previously submitted to the Court with the government's sentencing position for defendant Sean David Morton, Docket No. 225-2.

1 **d. Combined Offense Levels and Recommended Sentence**

2 Pursuant to U.S.S.G. §§ 3D1.1 and 1.2, the loss relating to the Form 1099-  
 3 OID scheme by defendant should be one “Group of Closely Related Counts”  
 4 (Group #1) and the loss pertaining to the bonds defendant made and passed on her  
 5 behalf and that of her clients should be a separate Group (Group #2). PSR, ¶¶ 37-  
 6 41. These separate Groups each involve distinct criminal undertakings by the  
 7 defendant, while within each group, the individual actions involve substantially the  
 8 same harm and criminal objective.

9 Under U.S.S.G. § 3D1.3, the highest offense level for defendant is with  
 10 respect to Group #1, as her total offense level is 26, while the Group #2 offense  
 11 level is 25. PSR, ¶ 65.

12 Under U.S.S.G. § 3D1.4, defendant’s Combined Offense Level is  
 13 determined by taking the offense level applicable to the Group with the highest  
 14 offense level, here Group #1, increasing that offense level pursuant to the  
 15 applicable table in this section of the Sentencing Guidelines. Then, the Court must  
 16 count one additional Unit for each Group that is equally serious or from 1 to 4  
 17 levels less serious, which is Group #2 at Level 25. PSR, ¶¶ 65-68. The United  
 18 States agrees with the Probation Office that defendant’s combined offense level  
 19 under the Sentencing Guidelines is 28. With a criminal history category of I,  
 20 defendant sentencing guidelines range is 78-97 months.

21 **IV. Consideration of Section 3553(a) factors**

22 Defendant’s criminal conduct, considered in light of the 3553(a) factors  
 23 discussed below, calls for a meaningful punishment and a sentence of **78 months**  
 24 imprisonment.  
 25

26 In determining the appropriate sentence to be imposed, this Court must also  
 27 consider all of the sentencing considerations set forth in Title 18, United States  
 28

Code, Section 3553(a). Those factors include: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need to afford adequate deterrence to criminal conduct, and to protect the public from further crimes of the defendant; (4) the need to provide the defendant with educational or vocational training, medical care, or other correctional treatment in the most effective manner; (5) the guidelines and policy statements issued by the Sentencing Commission; (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense. See 18 U.S.C. § 3553(a).

**a. Nature and circumstances of offense and defendant's history and characteristics**

In seeking an 78-month sentence, the United States is consciously advocating for a significant period of incarceration. This period of incarceration is commensurate with the seriousness and flagrancy of defendant's crimes, as well as her recent behavior of being caught with her fugitive co-defendant.

In her sentencing papers, defendant asserts that this is her first time in trouble with the law, which is not true. Docket 265, p. 4. Defendant has a long of perpetrating other frauds with her co-conspirator. In 2010, the Securities and Exchange Commission brought a civil suit against both defendants for their participation in a foreign currency exchange scheme. See Securities and Exchange Commission v. Sean David Morton, et al., Case No. 1:10-cv-01720-KBF (S.D. N.Y 2010).<sup>4</sup> Defendants filed multiple sovereign citizen-type documents, all of

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<sup>4</sup> During the SEC investigation, on March 18, 2009, defendants filed a civil lawsuit against the attorneys for the SEC, the Attorney General, and the U.S. Attorney of

1 which were rejected by the District Judge. At the conclusion of the suit, on March  
2 7, 2013, the District Court entered judgment against defendants in the amount of  
3 approximately \$11 million for the losses related to their currency scheme.

4 Also, on June 27, 2013, defendants filed for Chapter 7 bankruptcy protection  
5 in this District. See In re Morton and Thomson, Case No. 2:13-bk-26725-BB  
6 (C.D. Cal. 2013). This Court is familiar with the litany of false statements made  
7 by defendants in their Section 341 meeting of creditors proceedings, as submitted  
8 by the United States to the Court in supplemental briefing prior to trial in this case.  
9 Docket No. 173. Defendants were questioned under oath by the U.S. Trustee's  
10 Office and the Chapter 7 trustee, wherein they lied in answering simple questions,  
11 for example, if they owned bank accounts. Thereafter, the United States Trustee's  
12 Office filed an adversary proceeding against defendants to deny their discharge.  
13 See United States Trustee v. Morton, et al., 2:13-ap-01927-BB (C.D. Cal. 2013).  
14 After protracted litigation, on February 24, 2015, the United States Trustee's  
15 Office was successful against defendants to deny any bankruptcy discharge under  
16 11 U.S.C. § 727(a)(4)(A). Again, throughout both the bankruptcy and the  
17 adversary proceedings (which itself lasted 2 years), defendants filed a multitude of  
18 frivolous tax-protestor type documents, all of which cost the government and the  
19 Bankruptcy Court time and effort in which to respond.

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21  
22  
23 this District, to enjoin the investigation, declare that the SEC had no jurisdiction  
24 over the matter of the currency trading in which defendants were involved, and  
25 accuse the SEC attorneys of criminal misconduct. See Morton, et al. v.  
26 Ellenbogen, et al., Case No. CV 09-1875-PA-JCx (C.D. Cal. 2009). On motion by  
27 the government, the Court dismissed the action. See Docket No. 12. On June 29,  
28 2009, defendants appealed the District Court's ruling to the Ninth Circuit. See  
Morton, et al. v. Ellenbogen, et al., Case No. 09-56041 (9th Cir. 2009). On  
September 15, 2009, the Ninth Circuit affirmed the dismissal by the District Court.  
See Docket No. 20.

1 That defendant's behavior in perpetrating this crime is an aberration is  
2 simply not true given her past behavior. Regardless of who generated the scheme,  
3 defendant has always willingly participated in it. Most of defendant's criminal  
4 behavior in this instance is attributed to her involvement of either the 1099 OID or  
5 bond schemes, especially the latter, to which she meticulously implemented for  
6 herself and her clients. At trial, the government had an IRS-CI Special Agent  
7 computer specialist testify about where the templates for the false bonds were  
8 located on defendants' computer under the user name "Melissa." See Trial  
9 Transcript, vol. 2, pp. 337-38.

10 Further, even in light of her multiple convictions and the imposition of her  
11 sentence, defendant was caught with defendant Sean David Morton when he was  
12 apprehended in Desert Hot Springs on August 21, 2017.

13 Nothing in the defendant's personal characteristics warrants a downward  
14 departure or a variance.

15 **b. Deterrence, respect for the law, and protection of the public**

16 An 78-month sentence adequately addresses, in accordance with section  
17 3553(a), the need for the sentence imposed "to promote respect for the law," as  
18 well as "the need to afford adequate deterrence to criminal conduct." The United  
19 States relies heavily on deterrence to enforce the internal revenue laws—more so  
20 than many other statutes. The reason is simple: the number of taxpayers in the  
21 United States far, far exceeds the number of auditors and criminal investigators  
22 available at the IRS.

23 The need for deterrence, both specific and general, warrants a strong  
24 sentence. This case presents a powerful need and opportunity for this Court to  
25 deter similar "sovereign citizen" fraudsters. Members of the tax-defier movement  
26 will take note of whatever sentences the Court imposes upon defendant in this  
27 case. Real deterrence can only be achieved by a significant jail sentence.  
28



1 Again, the Government rejects defendant's assertion that the crimes for  
2 which defendant was convicted was the only time she has been involved in tax  
3 protestor behavior, as her past civil and bankruptcy cases prove differently.

4 To date, defendant has not accepted responsibility for her criminal conduct.  
5 In light of his ongoing denial of guilt, the sentence recommended by the  
6 government is sufficient, but not greater than necessary, to address this concern.

7 **c. Need to provide educational or vocational training**

8 The need to provide defendant with any educational or vocational training,  
9 medical care, or other correctional treatment may be a factor in this case.

10 Defendant may benefit from further educational or vocational training that she  
11 could receive while incarcerated. Further, defendant has indicated that she suffers  
12 from medical issues, which could be addressed by the comprehensive care  
13 provided by the Bureau of Prisons.

14 **d. Need to avoid unwarranted sentencing disparities**

15 The need to avoid unwarranted sentencing disparities also entails a  
16 consideration of the sentences that defendants in other similar cases have received.  
17 Defendant Sean David Morton testified about two individuals from whom he and  
18 defendant Melissa Morton learned the OID and bond schemes: Brandon Adams  
19 and Gordon Hall, both of whom, as the government pointed out on cross  
20 examination, are currently incarcerated for committing crimes similar to those  
21 committed by defendant. See Trial Transcript, vol. 4, pp. 34, 35, 95, 96, 104, 105.

22 At trial, defendant Sean David Morton testified in his direct that both  
23 defendants had their false OID returns prepared by Brandon Adams. See Trial  
24 Transcript, vol. 4, p. 10. In 2014, Adams was indicted for violations of 18 U.S.C. §  
25 514 in the District of Arizona, and on January 13, 2015, plead guilty to two  
26 violations of 18 U.S.C. § 514. See United States v. Adams, Case No. CR 14-  
27 00184-2-PHX-NVW (D. Ariz. 2014). On June 16, 2015, Adams was sentenced to  
28 40 months imprisonment. Id.



1 At trial, defendant Sean David Morton testified that defendants learned  
2 about the bond scheme from Hall, who often stayed at defendants' house as a  
3 guest. See Trial Transcript, vol. 4, pp. 104, 105. Hall was indicted, along with  
4 Brandon Adams, for violations of 18 U.S.C. § 514. See United States v. Hall, Case  
5 No. CR 14-00184-1-PHX-NVW (D. Ariz. 2014). On January 22, 2015, after a trial,  
6 Hall was convicted of four counts of violations of 18 U.S.C. § 514, and was  
7 sentenced on June 17, 2015 to 96 months incarceration. Id. Following an appeal by  
8 Hall, the Ninth Circuit upheld the ordered term of incarceration, but remanded the  
9 case to the District Court for clarification on 2 conditions of Hall's supervised  
10 release. Id. The recommended sentence of 78 months is well within the range for  
11 similarly situated defendants who taught the defendants the schemes they used and  
12 peddled.

13 **e. Defendant's minimization of her criminal acts**

14 At trial, defendant's sole defense was that, being a dutiful wife, she was  
15 strongly influenced by her co-conspirator husband and Brandon Adams, who  
16 taught the OID scheme at seminars to which defendant attended with Sean David  
17 Morton. Defendant has indicated that she will not be pursuing this defense in her  
18 sentencing argument, as it is not true; defendant was lockstep with her husband in  
19 participation in both schemes.

20 First, as to the OID scheme, each and every time defendant Sean David  
21 Morton mailed a false income tax return to the IRS, defendant Melissa Morton did  
22 the same. Exhibits 15, 17, 18 and 19.<sup>5</sup> The amount of the false claims may have  
23 been different, but the act of filing the false claims was done by both defendants,  
24 often on the same dates. As testified by the IRS custodian of record, the IRS

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27 <sup>5</sup> Exhibits 15 and 18 were previously submitted to the Court with the government's  
28 sentencing position for defendant Sean David Morton, Docket No. 225-7 and 225-8.

1 assessed defendant Sean David Morton 19 frivolous filing penalties based on  
2 returns submitted by him, and assessed Melissa Morton 14 of the same penalty  
3 assessments for her frivolous returns. Trial Transcript, vol. 1, pp. 152, 172.  
4 Further, the IRS custodian testified that defendant filed false claims for refund after  
5 having received at least 2 types of notices from the IRS which states that the  
6 position taken on her returns was considered frivolous. Trial Transcript, vol. 1.,  
7 pp. 152-154, 157-160. Further, when it came to the disbursement of the erroneous  
8 refund, the evidence showed that it was defendant Melissa Morton that moved  
9 most of the funds to the two newly-established Washington Mutual accounts.  
10 Exhibit 24, pp. 9, 10. Finally, defendant Sean David Morton testified at trial that  
11 defendant Melissa Morton was the one who handled the money. Trial Transcript,  
12 vol. 4, p. 653. The facts proven at trial confirm that Melissa Morton's role in the  
13 schemes was equal to that of her co-conspirator husband.

14 Secondly, when it came to the bond scheme, both defendants submitted the  
15 same bond to the IRS on the same day—the only difference was the amount of the  
16 bonds. Exhibits 20 and 21.<sup>6</sup> When it came to peddling the scheme to others, it was  
17 defendant Melissa Morton who meticulously handled all of the paperwork between  
18 the clients and the bank/financial institutions. As bond-client Barbara Lavender  
19 testified at trial, defendant Melissa Morton was her main point of contact for the  
20 bond process for all paperwork and email correspondence. Trial Transcript, vol. 2,  
21 p. 483. Melissa Morton signed and notarized virtually every bond. Exhibits A-U.  
22 At trial, recall that the government introduced metadata that every template for the  
23 bond clients were saved under the user profile "Melissa." Trial Transcript, vol. 2,  
24 p. 338. Defendant Sean David Morton may have sold the program to clients, but  
25 Melissa Morton made the bonds happen.

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28 <sup>6</sup>Exhibit 14 was previously submitted to the Court in Docket No. 225-6.

1 Finally, there is no question that both defendants knew that their schemes  
2 were false. Again, the government introduced evidence that both defendants got  
3 warning letters from the IRS that their OID returns were false, and yet, both filed  
4 more false returns after these warnings, including all of the claims that are counts 2  
5 through 5. Further, at trial, the government introduced a video recording of  
6 defendant Sean David Morton joking with Brandon Adams about the legality of  
7 the scheme, and showed defendant Melissa Morton was sitting next to Sean David  
8 Morton at this lecture. Defense Exhibit B. The evidence was clear that Melissa  
9 Morton was equally complicit in both schemes.

10 For all of these reasons, defendant's criminal conduct warrants a significant  
11 prison sentence of 78-months. There are no other Section 3553(a) factors in this  
12 case which militate against imposition of such a sentence upon defendant; to the  
13 contrary, the 3553(a) factors on balance support the imposition of the  
14 recommended punishment. The United States respectfully submits that this  
15 sentence is sufficient, but not greater than necessary, to comply with the purposes  
16 set forth in Title 18, United States Code, Section 3553(a).

17 **f. Need for restitution**

18 As noted by the Probation Office, pursuant to 18 U.S.C. § 3663, the Court  
19 should enter a restitution order against defendant in the amount of \$480,322.55 to  
20 be paid to the IRS, which represents the amount of the erroneous refund issued to  
21 defendant Sean David Morton for defendant's false 2008 income tax return, which,  
22 as proven at trial, defendant Melissa Morton subsequently transferred to two  
23 jointly owned bank accounts on the same day the refund was issued. The  
24 government does not recommend the imposition of a fine. PSR, ¶¶ 163, 167;  
25 Letter, pp.1-2.

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## V. Conclusion

For nearly a decade, defendant has made deliberate criminal choices, which resulted in her conviction for serious crimes, which warrant an equally serious sentence.

For all of the above stated reasons, the Court should impose a sentence upon defendant of 78 months imprisonment, followed by a 5-year term of supervised release. A restitution order in the amount of \$480,322.55 should be entered against defendant, and defendant should be ordered to pay a special assessment of \$2,900 to the Court. Additionally, such sentence should include (or require defendant to be subject to) the terms and conditions enumerated by the Probation Office.

Respectfully submitted,

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DATED: 09/05/17

\_\_\_\_\_/s/\_\_\_\_\_  
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